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October 8, 2019

VIA ECF

The Honorable Robert W. Lehrburger
United States District Court Southern District of New York
500 Pearl Street
New York, New York 10007
Email: Lehrburger_NYSDChambers@nysd.uscourts.gov

Re: *Sherry Grimes-Jenkins v. Consolidated Edison of New York, Inc.*
Index No. 16-cv-04897(AT)(RWL)
Related Case: *Sherry Grimes-Jenkins v. Consolidated Edison Company of New York, Inc. & Sean Green; Index No. 18-cv-01545(AT)(RWL)*

Dear Judge Lehrburger:

We represent Defendant Consolidated Edison of New York, Inc. ("Defendant") in the above-referenced action and related action. Pursuant to Your Honor's Individual Rules, the parties respectfully submit this joint request for an extension of the expert discovery deadline currently scheduled for October 14, 2019 by 60-days up to and including December 13, 2019 to complete expert discovery in this action. This is the parties' second request for the extension of the expert discovery deadline, and the sixth request for an extension of an applicable discovery deadline in this action. Relatedly, we respectfully request that the remaining deadlines set forth within the Civil Case Management Plan and Scheduling Order so ordered on August 22, 2019 (ECF No. 89) be extended accordingly. To that end, the parties submit a revised proposed Civil Case Management Plan and Scheduling Order, attached hereto as Exhibit A.

Since the parties' previous extension request (ECF No. 87), the parties have worked diligently towards completing expert discovery. The parties' expert discovery in this action concerns Plaintiff's alleged emotional distress damages. To that end, Defendant has identified Dr. Stuart B. Kleinman as an expert it intends to call at trial, and parties have conferred in good faith to schedule Plaintiff's independent medical examination ("IME"), which necessary for the completion of an expert report. Based on the availability of all those involved, Defendant has proposed several dates for Plaintiff's IME, including most recently, the week of October 7, 2019. Plaintiff's counsel is continuing to confer with Plaintiff about her forthcoming IME, which is a personal and sensitive experience, but has yet to confirm Plaintiff's availability for an IME. As a result, the parties have not reached a mutually agreeable date on which Plaintiff's IME could be performed which would



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allow Defendant's expert sufficient time to complete his expert report by the current October 14, 2019 expert discovery deadline. The parties are continuing to confer regarding mutually agreeable dates for Plaintiff's IME and the parties anticipate having a date certain for Plaintiff's IME shortly. Once Plaintiff's IME is completed, Dr. Kleinman will need a minimum of four weeks to provide the report given his active medical practice and travel schedule in November. Further, Plaintiff's counsel will also need a minimum of two weeks to review the report and depose Dr. Kleinman, if necessary. Thus, the parties request a brief extension of the expert discovery period.

This extension request is not sought for any improper purpose, and will not unnecessarily delay this action. The parties' request for a brief extension should not affect any other applicable deadlines in the related action, as this Court dismissed the operative complaint in the related action on April 8, 2019. (Related Case ECF No. 37.) Given availability of Plaintiff and Defendant's expert as well as the time it will take to conduct Plaintiff's IME and complete an expert report, the parties believe that a 60-day extension of the expert discovery deadline is appropriate to complete all outstanding expert discovery and proceed to summary judgment.

We thank the Court for its kind consideration of this request.

Very truly yours,

SEYFARTH SHAW LLP

/s/ Lorie E. Almon

Lorie Almon

cc: Attorneys of Record (via ECF)